

§ 4010.7

29 CFR Ch. XL (7–1–11 Edition)

through the end of the filer's information year (including information on exempt entities and exempt plans). The information must be submitted within ten days after the date of the written notification or by a different time specified therein.

(c) *Previous submissions.* If any required information has been previously submitted to PBGC, a filer may incorporate this information into the required submission by referring to the previous submission.

[61 FR 34022, July 1, 1996, as amended at 70 FR 11544, Mar. 9, 2005; 74 FR 11031, Mar. 16, 2009]

§ 4010.7 Identifying information.

(a) *Filers.* Each filer is required to provide, in accordance with the instructions on PBGC's Web site, <http://www.pbtc.gov>, the following identifying information with respect to each member of the filer's controlled group (excluding exempt entities)—

(1) *Current members.* For an entity that is a member of the controlled group as of the end of the filer's information year—

(i) The name, address, and telephone number of the entity and the legal relationships with other members of the controlled group (for example, parent, subsidiary);

(ii) The nine-digit Employer Identification Number (EIN) assigned by the IRS to the entity (or if there is no EIN for the entity, an explanation); and

(iii) If the entity became a member of the controlled group during the information year, the date the entity became a member of the controlled group; and

(2) *Former members.* For any entity that ceased to be a member of the controlled group during the filer's information year, the date the entity ceased to be a member of the controlled group and the identifying information required by paragraph (a)(1) of this section as of the day before the entity left the controlled group.

(b) *Plans.* Each filer is required to provide, in accordance with the instructions on PBGC's Web site, <http://www.pbtc.gov>, the following identifying information with respect to each plan (including exempt plans) maintained

by any member of the filer's controlled group (including exempt entities)—

(1) *Current plans.* For a plan that is maintained by the controlled group as of the last day of the filer's information year—

(i) The name of the plan;

(ii) The EIN and the three-digit Plan Number (PN) assigned by the contributing sponsor to the plan (or if there is no EIN or PN for the plan, an explanation);

(iii) If the EIN or PN of the plan has changed during the filer's information year, the previous EIN or PN and an explanation;

(iv) If the plan was not maintained by the controlled group immediately before the filer's information year, the date the plan was first maintained by the controlled group during the information year;

(v) If, as of any day during the information year, the plan was frozen (for eligibility or benefit accrual purposes), a description of the date and the nature of the freeze (e.g., service is frozen but pay is not); and

(vi) In the case of a multiple employer plan, a list of the contributing sponsors as of the end of the plan year ending within the filer's information year, including the name, employer identification number, contact information, fiscal year, and a statement as to whether each contributing sponsor is a publicly-traded company; and

(2) *Former plans.* For a plan that ceased to be maintained by the controlled group during the filer's information year, the date the plan ceased to be so maintained, identification of the controlled group currently maintaining the plan (if applicable), and the identifying information required by paragraph (b)(1) of this section as of the day before that date.

[70 FR 11544, Mar. 9, 2005, as amended at 74 FR 11031, Mar. 16, 2009]

§ 4010.8 Plan actuarial information.

(a) *Required information.* Except as provided elsewhere in this part, for each plan (other than an exempt plan) maintained by any member of the filer's controlled group, each filer is required to provide, in accordance with the instructions on PBGC's Web site,

Pension Benefit Guaranty Corporation

§ 4010.8

<http://www.pbgc.gov>, the following actuarial information determined (except as specified below) as of the end of plan year ending within the filer's information year—

- (1) The number of—
 - (i) Retired participants and beneficiaries receiving payments,
 - (ii) Terminated vested participants, and
 - (iii) Active participants;
- (2) The fair market value of the plan's assets (excluding any contributions received after year-end);
- (3) The amount of benefit liabilities under the plan, setting forth separately the amount of the liabilities attributable to retired participants and beneficiaries receiving payments, terminated vested participants, and active participants, determined, for this purpose in accordance with paragraph (d) of this section;
- (4) A description of the actuarial assumptions used to determine the benefit liabilities in paragraph (a)(3) of this section;
- (5) The funding target (as of the valuation date) for the plan year ending within the information year determined in accordance with ERISA section 303(i) and Code section 430(i) as if the plan had been in at-risk status for a consecutive period of at least five plan years;
- (6) The funding target attainment percentage (as of the valuation date) for the plan year ending within the information year;
- (7) The adjusted funding target attainment percentage as defined in ERISA section 206(g)(9)(B) and Code section 436(j)(2) for the plan year ending within the information year;
- (8) Whether the plan, at any time during the plan year, was subject to any of the limitations described in ERISA section 206(g) and Code section 436, and, if so, which limitations applied, when such limitations applied, and when (if applicable) they were lifted;
- (9) Whether a required installment or other required payment to the plan was not made, and, as a result, a lien described in ERISA section 303(k) and Code section 430(k) was triggered during the information year, and the required installment or other required

payment was not made within ten days after its due date;

(10) Whether any portion of the total minimum funding waiver(s) in excess of \$1 million granted with respect to such plan is outstanding;

(11) A copy of the actuarial valuation report for the plan year ending within the filer's information year that contains or is supplemented by the following information for that plan year—

(i) The funding target calculated pursuant to ERISA section 303 without regard to subsection 303(i)(1) (and Code section 430 without regard to subsection 430(i)(1)), setting forth separately the value of the liabilities attributable to retirees and beneficiaries receiving payment, terminated vested participants, and active participants (showing vested and nonvested benefits separately);

(ii) A summary of the actuarial assumptions and methods used for purposes of ERISA section 303 and Code section 430, including the form of payment and benefit commencement date assumptions for all active and deferred vested participants not yet receiving benefits, information on how lump sums are valued (for plans that provide lump sums other than *de minimis* lump sums), and any changes in those assumptions and methods since the previous valuation and the justifications for such changes.

(iii) The effective interest rate (as defined in ERISA section 303(h)(2)(A) and Code section 430(h)(2)(A));

(iv) The target normal cost calculated pursuant to ERISA section 303 without regard to subsection 303(i)(2) (and Code section 430 without regard to subsection 430(i)(2));

(v) For the plan year and each of the four preceding plan years, a statement as to whether the plan was in at-risk status for that plan year;

(vi) In the case of a plan that is in at-risk status, the target normal cost calculated pursuant to ERISA section 303 and Code section 430 as if the plan has been in at-risk status for five consecutive years;

(vii) The value of the plan's assets (reflecting any averaging method) as of the valuation date and the fair market value of the plan's assets as of the valuation date;

(viii) The funding standard carryover balance and the prefunding balance (maintained pursuant to ERISA section 303(f)(1) and Code section 430(f)(1)) as of the beginning of the plan year and a summary of any changes in such balances in the past year (e.g., amounts used to offset the minimum funding requirement, amounts reduced in accordance with any elections under ERISA section 303(f)(5) and Code section 430(f)(5), interest credited to such balances, and excess contributions used to increase such balances);

(ix) A list of amortization bases (shortfall and waiver) under ERISA section 303 and Code section 430, including the year each base was established, the original amount, the installment amount, and the remaining balance at the beginning of the plan year;

(x) An age/service scatter for active participants including average compensation information for pay-related plans and average account balance information for hybrid plans presented in a format similar to that described in the instructions to Schedule SB of the Form 5500;

(xi) Expected disbursements (benefit payments and expenses) during the plan year;

(xii) A summary of the principal eligibility and benefit provisions on which the valuation of the plan was based (and any changes to those provisions since the previous valuation), along with descriptions of any benefits not included in the valuation, any significant events that occurred during the plan year, and the plan's early retirement factors; in the case of a plan that provides lump sums, other than de minimis lump sums, the summary must include information on how annuity benefits are converted to lump sum amounts (e.g., whether early retirement subsidies are reflected); and

(xiii) Any other similar information as specified in instructions on PBGC's Web site, <http://www.pbgc.gov>; and

(12) A written certification by an enrolled actuary that, to the best of his or her knowledge and belief, the actuarial information submitted is true, correct, and complete and conforms to all applicable laws and regulations, provided that this certification may be

qualified in writing, but only to the extent the qualification(s) are permitted under 26 CFR 301.6059–1(d).

(b) *Alternative compliance for plan valuation report.* If any of the information specified in paragraph (a)(11) of this section is not available by the date specified in § 4010.10(a), a filer may satisfy the requirement to provide such information by—

(1) Including a statement, with the material that is submitted to PBGC, that the filer will file the unavailable information by the alternative due date specified in § 4010.11(b), and

(2) Filing such information (along with a certification by an enrolled actuary under paragraph (a)(12) of this section) with PBGC by that alternative due date.

(c) *Exempt plan.* The actuarial information specified in this section is not required with respect to a plan if the plan satisfies the conditions in paragraph (c)(1) through (3).

(1) The plan—

(i) Has fewer than 500 participants as of the end of the plan year ending within the information year or as of the valuation date for that plan year and has a 4010 funding shortfall (as defined in § 4010.11(c)) for the plan year ending within the information year that is not in excess of \$15 million, or

(ii) Has benefit liabilities as of the end of the plan year ending within the filer's information year, (determined in accordance with paragraph (d) of this section) equal to or less than the fair market value of the plan's assets.

(2) The plan has received, by or within ten days after the due dates, all required installments or other payments required to be made during the information year under ERISA sections 302 and 303 and Code sections 412 and 430.

(3) The plan has no outstanding minimum funding waivers (as described in § 4010.4(a)(3)) as of the end of the plan year ending within the information year.

(d) *Value of benefit liabilities.* The value of a plan's benefit liabilities at the end of a plan year must be determined using the plan census data described in paragraph (d)(1) of this section and the actuarial assumptions and methods described in paragraph (d)(2)

or, where applicable, (d)(3) of this section.

(1) *Census data*—(i) *Census data period*. Plan census data must be determined (for all plans for any information year) either as of the end of the plan year or as of the beginning of the next plan year.

(ii) *Projected census data*. If actual plan census data are not available, a plan may use a projection of plan census data from a date within the plan year. The projection must be consistent with projections used to measure pension obligations of the plan for financial statement purposes and must give a result appropriate for the end of the plan year for these obligations. For example, adjustments to the projection process are required where there has been a significant event (such as a plan amendment or a plant shutdown) that has not been reflected in the projection data.

(2) *Actuarial assumptions and methods*. The value of benefit liabilities must be determined using the following rules in paragraphs (d)(2)(i) through (iv) of this section:

(i) *Assumptions included in §§ 4044.51 through 4044.57*. Interest, expenses, mortality and retirement assumptions must be as prescribed in §§ 4044.51 through 4044.57 of this chapter.

(ii) *Assumptions not included in §§ 4044.51 through 4044.57*. Assumptions for decrements other than mortality and retirement (such as turnover or disability) used to determine the minimum required contribution under ERISA section 303 and Code section 430 for the plan year ending within the filer's information year may be used, but only if all such assumptions are used. For plans where there is no distinction between termination and retirement assumptions, any termination/retirement rates at ages after the Earliest PBGC Retirement Date (as defined in § 4022.10 of this chapter) must be treated as retirement rates and replaced by expected retirement ages; termination/retirement rates at ages below the Earliest PBGC Retirement Date must be treated as pre-retirement decrements. Assumptions used to determine the minimum required contribution for the plan year ending within the filer's information year, other than assump-

tions for decrements, interest, and expenses (*e.g.*, form of payment, cost-of-living increases, marital status), must be used.

(iii) *Benefits to be valued*. Benefits to be valued include all benefits earned or accrued under the plan as of the end of the plan year ending within the information year and other benefits payable from the plan including, but not limited to, ancillary benefits and retirement supplements, regardless of whether such benefits are protected by the anti-cutback provisions of Code section 411(d)(6).

(iv) *Future service*. Future service expected to be accrued by an active participant in an ongoing plan during future employment (based on the assumptions used to determine benefit liabilities) must be included in determining the earliest and unreduced retirement ages used to determine the expected retirement age and in determining an active participant's entitlement to early retirement subsidies and supplements at the expected retirement age. See the examples in paragraph (e) of this section.

(3) *Special actuarial assumptions for exempt plan determination*. Solely for purposes of determining whether a plan is an exempt plan for an information year, the value of benefit liabilities may be determined by substituting for the retirement age assumptions in paragraph (d)(2) of this section the retirement age assumptions used by the plan for the plan year ending within the information year for purposes of section 303 of ERISA without regard to the at-risk assumption of subsection 303(i) of ERISA and Code section 430 without regard to the at-risk assumption of subsection 430(i).

(e) *Examples*. The following examples demonstrate how XRA is determined and applied for purposes of determining benefit liabilities under paragraph (d) of this section:

(1) *Example 1*. (i) *Facts*. Plan X has a normal retirement age of 65, but allows benefits to commence as early as age 55 for participants who complete at least 10 years of service before termination. Early retirement benefits are reduced for participants with fewer than 25 years of service. Employee A is an active participant who is age 40 and has

completed 5 years of service. Assume the “medium” XRA look-up table applies, and that for purposes of § 4010.8(d), the filer has decided not to take pre-retirement decrements other than mortality table into account as permitted under § 4010.8(d)(2)(i).

(ii) *Determination of XRA.* If A continues working, the earliest age A could start receiving benefit is age 55. Therefore, A’s earliest retirement age at valuation (ERA) is 55. Because the earliest that A can receive an unreduced benefit is when A completed 25 years of service (at age 60), A’s URA is age 60. Under the medium XRA look-up table, A’s XRA is 58.

(iii) *Determination of Benefit Liabilities.* The benefit liability is the present value of A’s benefit accrued as of the measurement date assuming A retires at age 58 and elects to have benefits commence immediately. Since A will not be eligible to receive unreduced benefits at that time, the accrued benefit is reduced in accordance with the plan’s early retirement reduction provisions, including any subsidies to which A will be entitled under the assumption that A works until age 58.

(2) *Example 2.* Employee B is also an active participant in plan X and is age 40 with 15 years of service. B will complete 25 years of service at age 50. However, because the plan does not allow for benefit commencement before age 55, B’s ERA, URA and thus, XRA are all age 55. The benefit liability is the present value of B’s benefit accrued as of the measurement date assuming B retires at age 55 and elects to commence benefits immediately. Since B will be eligible to receive an unreduced benefit at that time, the full unreduced benefit amount is valued.

(3) *Example 3—(i) Facts.* Assume the same facts as in Example 1, except that for purposes of § 4010.8(d), the filer has decided to take pre-retirement decrements other than mortality into account as permitted under § 4010.8(d)(2)(i). Assume the only pre-retirement decrement other than mortality is turnover. The plan’s turnover rates go from age 21 to age 54, and the retirement rates go from age 55 to age 65.

(ii) *Determination of XRA.* If A terminates employment at or before age 45,

A will not be eligible to receive benefits until age 65. Therefore, the portion of Employee A that is assumed to terminate before age 45 has an ERA, URA, and XRA of age 65. The portion of A that remains in service to age 45, after the application of the applicable turnover decrements, and then terminates at or after age 45, but before age 55, will be entitled to receive a reduced benefit as early as 55. Therefore, the portion of A that is assumed to terminate during this period has an ERA of 55, a URA of 65 and an XRA of 60. Since the turnover rates stop at age 55, the portion of A that remains in service to age 55 is assumed to remain in service until the XRA for that portion of A. For that portion of A, the ERA is 55, the URA is 60 and the XRA is 58. (For purposes of § 4010.8(d), the plan’s assumed retirement rates are replaced by XRAs.)

(iii) *Determination of benefit liabilities.* The benefit liability of A is the sum of the present value of A’s full accrued benefit at age 65 for the portion of A that terminates between age 40 and age 45, the present value of A’s accrued benefit reduced for commencement at age 60 for the portion of A that terminates between age 45 and age 54, and the present value of A’s accrued benefit reduced for commencement at age 58 for the portion of A that remains employed until age 55.

(4) *Example 4.* Assume the same facts as in Example 3, except that Employee B, the sole active participant, is age 40 with 15 years of service. The portion of B that is assumed to terminate before age 50 would be entitled to receive a reduced benefit as early as age 55 or an unreduced benefit at age 65. That portion of B has an ERA of 55, a URA of 65, and an XRA of 60. The benefit liability for that portion of B is the present value of B’s benefit accrued as of the measurement date assuming B commences a reduced benefit at age 60. The portion of B that survives to age 50 would be entitled to receive an unreduced benefit as early as age 55. That portion of B has an ERA, URA and XRA of 55. The benefit liability for this portion of B is the present value of B’s benefit accrued as of the measurement date assuming B retires and commences unreduced payments at age 55.

Pension Benefit Guaranty Corporation

§ 4010.9

(f) *Multiple employer plans.* If, with respect to a multiple employer plan, the actuarial information required under this section 4010 for the plan year ending within the filer's information year has been filed under part 4010 by another filer, the filer may include this actuarial information by reference. The filer must report the name, EIN and plan number of the multiple employer plan and the name of the other filer that submitted this information.

(g) *Previous filing for plan year.* If the actuarial information for the plan year as required under this § 4010.8 has been submitted by the filer in a previous 4010 submission, the filing may include that actuarial information by reference to the previous submission.

(h) *Special rules for plan years beginning before 2008.* For plan years beginning before 2008:

(1) The requirements of paragraphs (a) (5) through (8) of this section do not apply.

(2) The references in paragraph (a)(9) of this section to ERISA section 303(k) and Code section 430(k) are replaced with references to sections of ERISA and the Code, as in effect before amendment by the Pension Protection Act of 2006, Public Law 109-280.

(3) Instead of the requirement of paragraph (a)(11) of this section, the actuarial valuation report requirements in § 4010.8(a)(5) in effect as of December 31, 2007, apply.

(i) *Plans subject to special funding rules under sections 104, 105, 106 and 402(b) of the Pension Protection Act of 2006.* Instead of the requirements of paragraph (a)(11) of this section:

(1) In the case of a plan year for which the application of new funding rules is deferred for a plan under sections 104, 105, and 106 of the Pension Protection Act of 2006, Pub. L. 109-280 (dealing with plans of certain rural co-operatives, certain plans affected by settlement agreement with PBGC, and certain plans of government contractors), the requirements in § 4010.8(a)(5) (in connection with the actuarial valuation report) in effect as of December 31, 2007, apply to the plan.

(2) In the case of a plan year for which a plan is subject to section 402(b) of the Pension Protection Act of 2006, Public Law 109-280 (dealing with cer-

tain frozen plans of commercial passenger airlines and airline caterers), the plan must meet the requirements in connection with the actuarial valuation report in accordance with instructions on PBGC's Web site, <http://www.pbgc.gov>.

[74 FR 11031, Mar. 16, 2009]

§ 4010.9 Financial information.

(a) *General.* Except as provided in this section, each filer is required to provide, in accordance with the instructions on PBGC's Web site, <http://www.pbgc.gov>, the following financial information for each member of the filer's controlled group (other than an exempt entity)—

(1) Audited financial statements for the fiscal year ending within the information year (including balance sheets, income statements, cash flow statements, and notes to the financial statements);

(2) If audited financial statements are not available by the date specified in § 4010.10(a), unaudited financial statements for the fiscal year ending within the information year; or

(3) If neither audited nor unaudited financial statements are available by the date specified in § 4010.10(a), copies of federal tax returns for the tax year ending within the information year.

(b) *Consolidated financial statements.* If the financial information of a controlled group member is combined with the information of other group members in consolidated financial statements, a filer may provide the following financial information in lieu of the information required in paragraph (a) of this section—

(1) The audited consolidated financial statements for the filer's information year or, if the audited consolidated financial statements are not available by the date specified in § 4010.10(a), unaudited consolidated financial statements for the fiscal year ending within the information year; and

(2) For each controlled group member included in the consolidated financial statements (other than an exempt entity), the member's revenues and operating income for the information year, and net assets at the end of the information year.